UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

BLAINE HARRINGTON III, Plaintiff, v. INDUSTRIAL COMMERCIAL COATINGS, LLC, Defendant.	Civil Action No.: COMPLAINT AND JURY DEMAND

COMPLAINT FOR COPYRIGHT INFRINGEMENT

Plaintiff, BLAINE HARRINGTON III ("Plaintiff"), brings this complaint in the United States District Court for the District of New Mexico against INDUSTRIAL COMMERCIAL COATINGS, LLC ("Defendant"), alleging as follows:

PARTIES

1. Plaintiff is an experienced, commercial travel and location photographer. Plaintiff has worked as a commercial photographer for over forty (40) years, including most major news, business, and travel magazines throughout the world, as well as traveled to over seventy countries. Plaintiff was chosen as the Society of American Travel Writer Travel Photographer of the Year in 2005 and 2006.

2. On information and belief, Defendant is a Domestic Limited Liability Company existing under the laws of the State of New Mexico, with headquarters in Albuquerque, New Mexico.

Defendant specializes in the application of commercial and industrial coatings, high-performance linings, concrete repair and restoration, epoxy flooring, and infrastructure rehabilitation.[1]

JURISDICTION AND VENUE

3. This is a civil action seeking damages for copyright infringement under the copyright laws of the United States (17 U.S.C. § 101 et seq.).
4. This Court has jurisdiction under 17 U.S.C. § 101 et seq.; 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338(a) (copyright).
5. This Court has personal jurisdiction over the Defendant, and venue in this District is proper under 28 U.S.C. § 1391(b) and 28 U.S.C. § 1400(a), in that a substantial part of the acts of infringement complained of herein occurred in this District.

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

6. Plaintiff captured the photograph, “20121008_nm-tex_2962.jpg,” (“Copyrighted Photograph”) on October 13, 2012. The Copyrighted Photograph was taken in Albuquerque, New Mexico. Exhibit A.
7. Plaintiff posted the Copyrighted Photograph on December 16, 2012 on www.blaineharrington.photoshelter.com (last visited April 20, 2017). Exhibit B.
8. Plaintiff registered Copyrighted Photographs with the United States Copyright Office on March 5, 2013 (Registration No.: 1-132-209). Exhibit C.

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[1] www.iccnm.com (last visited April 20, 2017)

9. Beginning on or about November 2015, Defendant copied and posted the Copyrighted Photograph to the following URLs (Exhibit D):

- www.iccnm.com (last visited May 31, 2015)
- www.iccnm.com/projects (last visited May 31, 2015)
- www.iccnm.com/about-us (last visited May 31, 2015)
- www.iccnm.com/services/epoxy-flooring (last visited May 31, 2015)
- www.iccnm.com/services (last visited May 31, 2015)
- www.iccnm.com/services/polished-concrete (last visited May 31, 2015)
- www.iccnm.com/services/concrete-remediation-and-overlays (last visited May 31, 2015)
- www.iccnm.com/contact (last visited May 31, 2015)
- www.iccnm.com/services/painting-coatings/commercial-residential (last visited May 31, 2015)
- www.iccnm.com/services/painting-coatings/industrial-coatings (last visited May 31, 2015)
- www.iccnm.com/services/painting-coatings/high-performance-polyurea (last visited May 31, 2015)
- www.iccnm.com/contact/employment (last visited May 31, 2015)
- www.twitter.com/ICCNMdotCOM (last visited April 18, 2015)
- www.facebook.com/iccnm/?rf=507658099384903 (last visited April 18, 2015)
- www.youtube.com/channel/UCi0IjAn670rrlvUAcJ1C64Q (last visited April 18, 2015)

10. Despite numerous attempts during the past year by Plaintiff and Plaintiff’s counsel to communicate to Defendant that the Copyrighted Photograph is the intellectual property of Plaintiff, as of the date of this filing, the Twitter, Facebook, and Youtube URLs have not been edited to omit the Copyrighted Photograph, or taken offline.

COUNT I: INFRINGEMENT OF COPYRIGHT PURSUANT TO 17 U.S.C. §101 ET SEQ.

11. Plaintiff incorporates herein by this reference each and every allegation contained in each paragraph above.

12. Plaintiff is, and at all relevant times has been, the copyright owner or licensee of exclusive rights under United States copyright law with respect to the Copyrighted Photograph, which is the subject of a valid Certificate of Copyright Registration issued by the Register of Copyrights.

13. Among the exclusive rights granted to each Plaintiff under the Copyright Act are the exclusive rights to reproduce the Copyrighted Photograph and to distribute the Copyrighted Photograph to the public.

14. Plaintiff is informed and believes that Defendant, without the permission or consent of Plaintiff, has copied and used the Copyrighted Photograph on Defendant's public and commercial website, www.iccnm.com. In doing so, Defendant violated Plaintiff's exclusive rights of reproduction and distribution. Defendant's actions constitute infringement of Plaintiff's copyrights and exclusive rights under United States copyright.

15. Plaintiff is informed and believes that the foregoing act of infringement was willful and intentional, in disregard of and with indifference to the rights of Plaintiff.

16. As a result of Defendant's infringement of Plaintiff's copyrights and exclusive rights under copyright, Plaintiff is entitled to statutory damages pursuant to 17 U.S.C. § 504(c) for Defendant's infringement of the Copyrighted Photograph. Plaintiff is further entitled to their attorneys' fees and costs pursuant to 17 U.S.C. § 505.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

A. Declaring that Defendant's unauthorized conduct violates Plaintiff's rights under the Federal Copyright Act;

B. Immediately and permanently enjoining Defendant, their officers, directors, agents, servants, employees, representatives, attorneys, related companies, successors, assigns, and all others in active concert or participation with them from copying and republishing Plaintiff's Copyrighted Photograph without consent or otherwise infringing Plaintiff's copyright or other rights in any manner;

C. Ordering Defendant to account to Plaintiff for all gains, profits, and advantages derived by Defendant by their infringement of Plaintiff's copyright or such damages as are proper, and since Defendant intentionally infringed Plaintiff's copyright, for the maximum allowable statutory damages for each violation;

D. Awarding Plaintiff actual and/or statutory damages for Defendant's copyright infringement in an amount to be determined at trial;

E. Awarding Plaintiff his costs, reasonable attorneys' fees, and disbursements in this action, pursuant to 17 U.S.C. § § 504-5; and

F. Awarding Plaintiff such other and further relief as is just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury on all claims for which there is a right to jury trial.

Dated: May 16, 2017

____/s/__*David C. Deal*_______________
David C. Deal (VA Bar No.: 86005)
The Law Office of David C. Deal, P.L.C.
P.O. Box 1042
Crozet, VA 22932
434-233-2727, Telephone
888-965-8083, Facsimile
david@daviddeal.com
Attorney for Plaintiff

_____/s/___*Ian Bezpalko*_______________
Ian Bezpalko (NM Bar No.: 21761)
Ian Bezpalko Law Firm
P.O. Box 7635
Albuquerque, NM 87194
505-341-9353, Telephone
505-341-9423, Facsimile
ian@bezpalkolawfirm.com
Local Counsel for Plaintiff

EXHIBIT A

EXHIBIT B

Certificate of Registration

This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Register of Copyrights, United States of America

Registration Number
VAu 1-132-209

Effective date of registration:
March 5, 2013

Title

Title of Work: Blaine Harrington III Photography 20120116-20121129 12,692 Unpublished Photos

Completion/Publication

Year of Completion: 2012

Author

- **Author:** Blaine Harrington III

Author Created: photograph(s)

Work made for hire: No

Citizen of: United States **Domiciled in:** United States

Copyright claimant

Copyright Claimant: Blaine Harrington III
7533 South Overlook Way, Littleton, CO, 80128, United States

Limitation of copyright claim

Material excluded from this claim: text, jewelry design, architectural work, 2-D artwork, sculpture, map

New material included in claim: photograph(s)

Rights and Permissions

Name: Blaine Harrington III

Email: blaineharr@comcast.net **Telephone:** 303-932-9062

Address: 7533 South Overlook Way
Littleton, CO 80128 United States

Certification

Name: Blaine G. Harrington III

Date: March 5, 2013

Page 1 of 1

EXHIBIT C

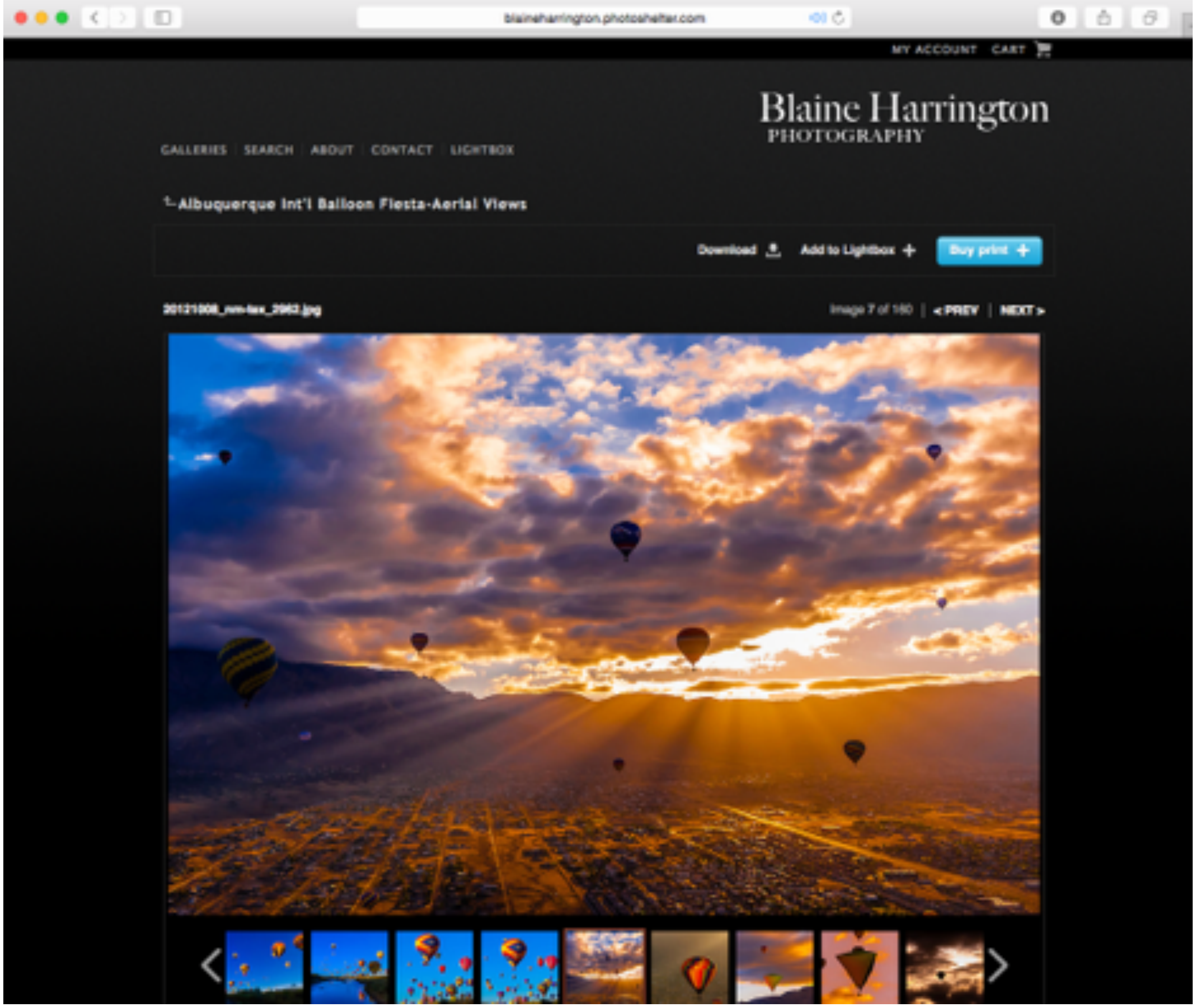
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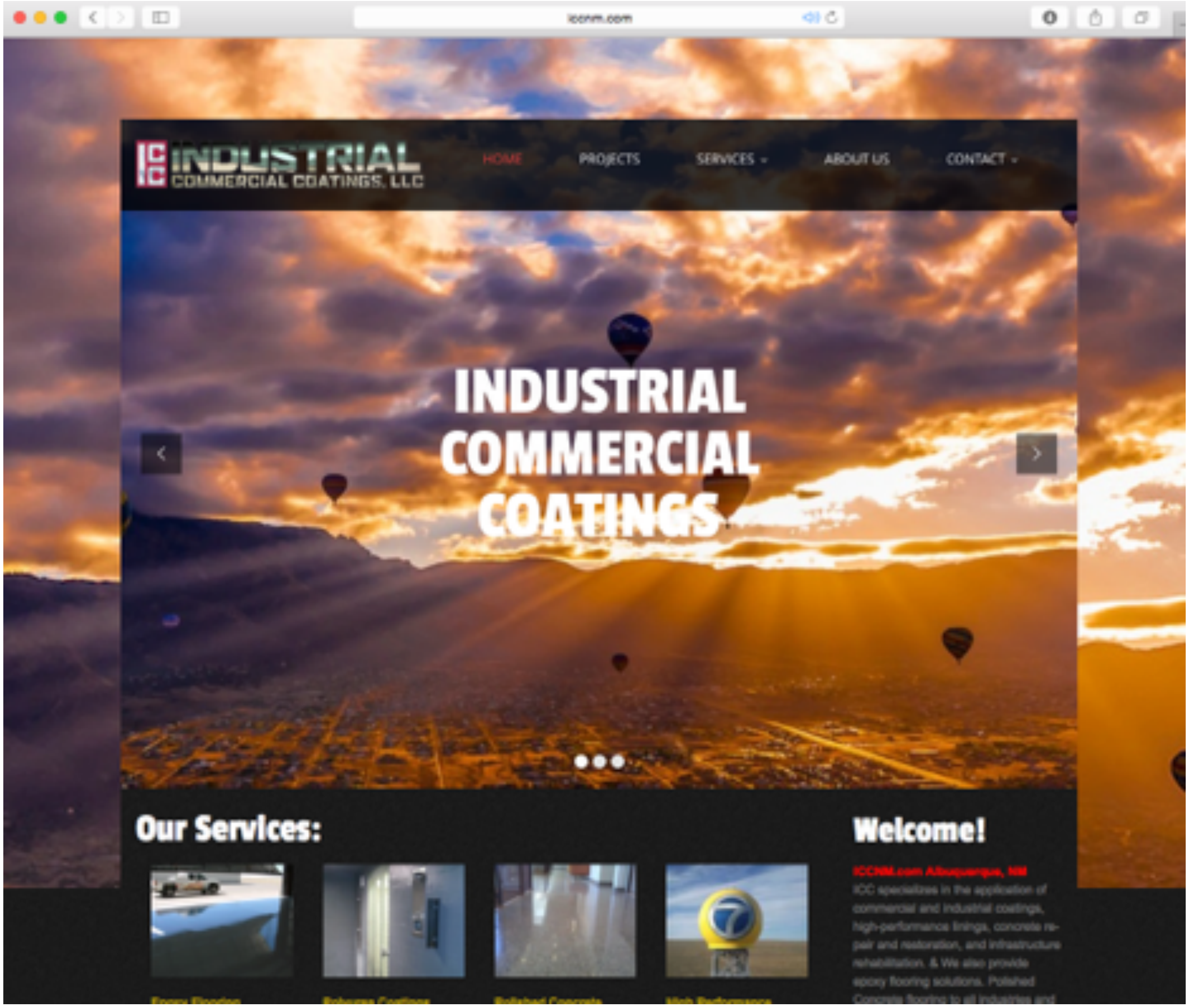
EXHIBIT D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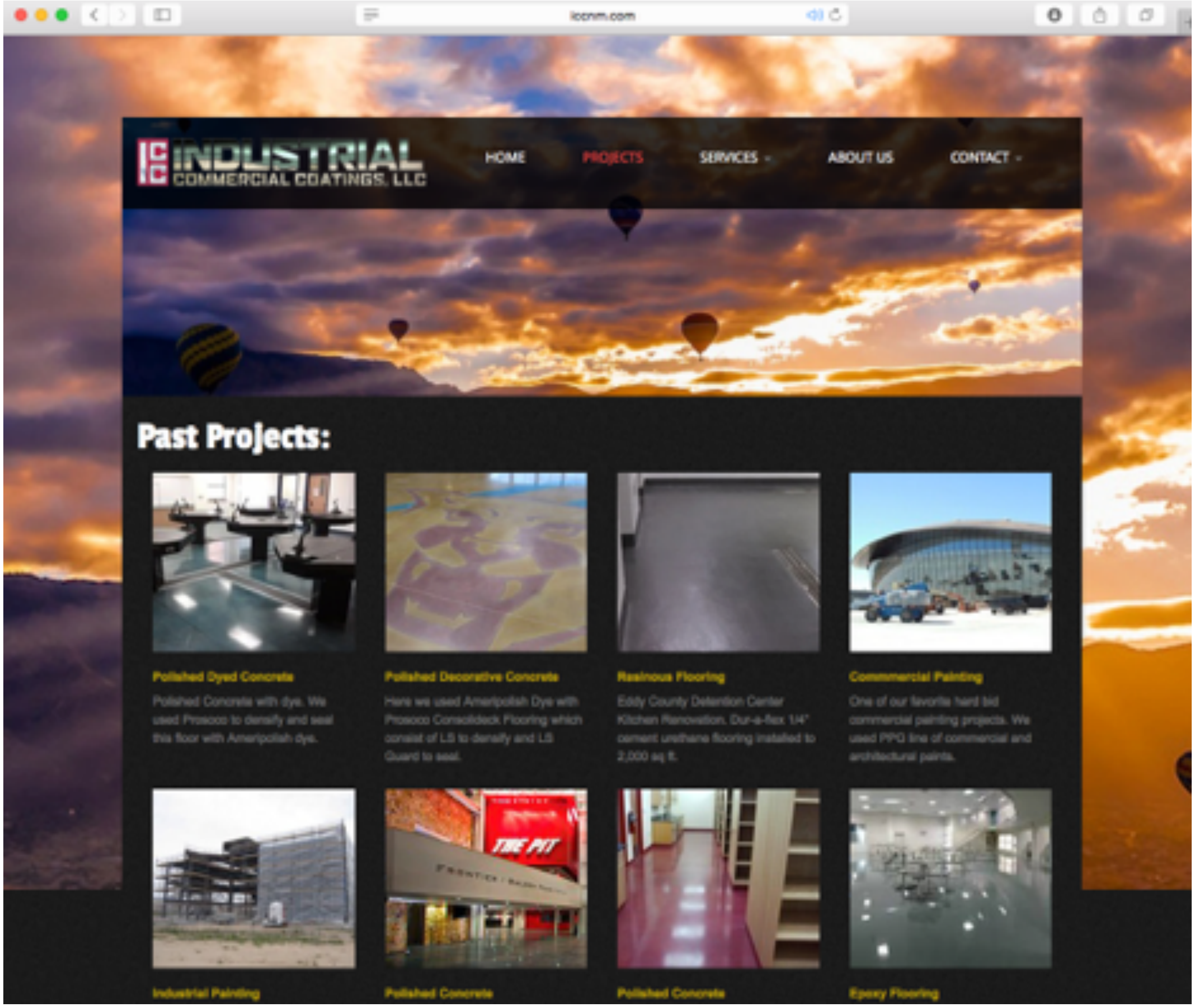
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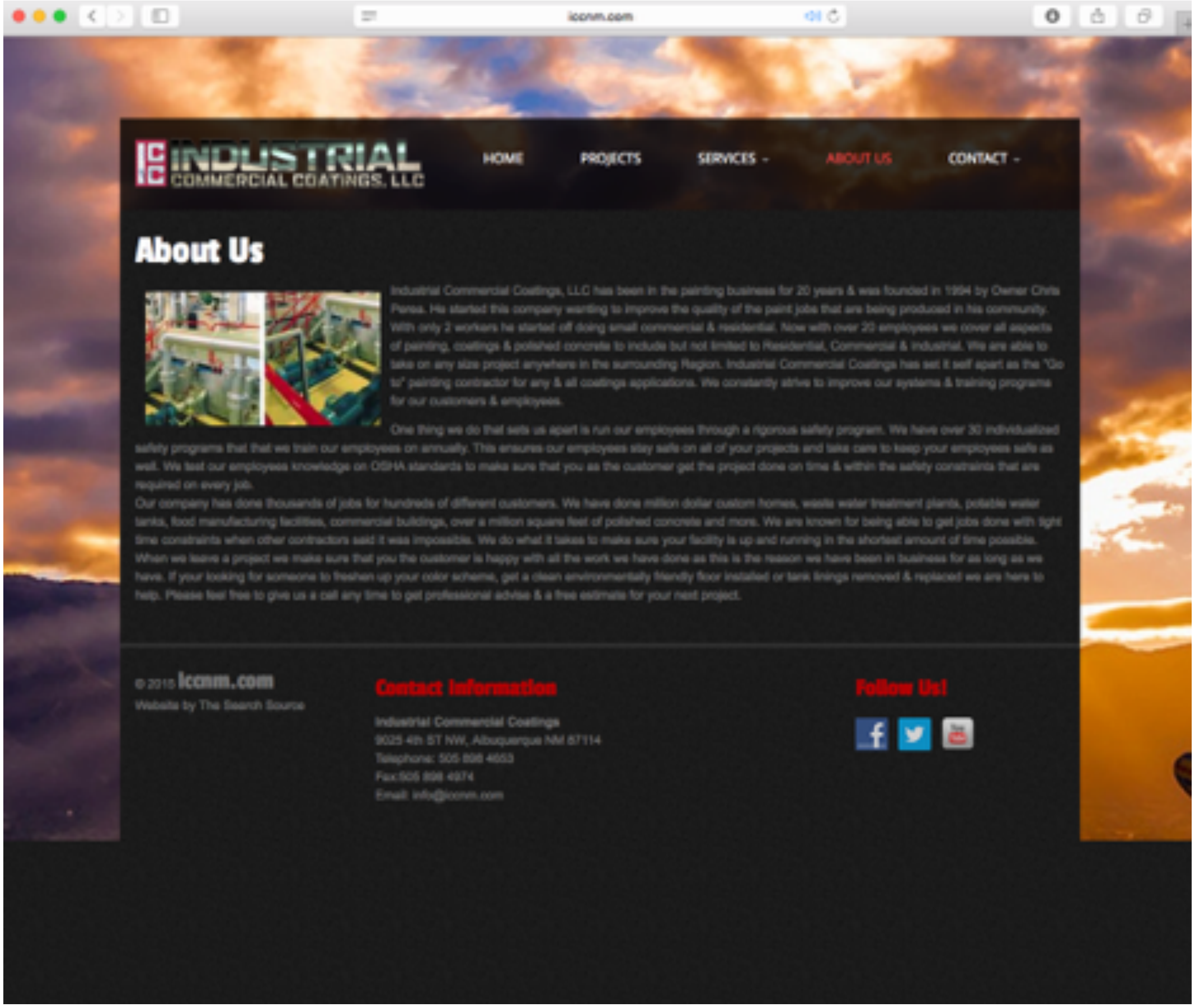
Past Projects:
Polished Dyed Concrete
Polished Concrete with dye. We used Prosoco to densify and seal this floor with Ameripolish dye.
Polished Decorative Concrete
Here we used Ameripolish Dye with Prosoco Consolideck Flooring which consist of LS to densify and LS Guard to seal.
Resinous Flooring
Eddy County Detention Center Kitchen Renovation. Dur-a-flex 1/4" cement urethane flooring installed to 2,000 sq ft.
Commmercial Painting
One of our favorite hard bid commercial painting projects. We used PPG line of commercial and architectural paints.
THE PIT
Industrial Painting
Polished Concrete
Polished Concrete
Epoxy Flooring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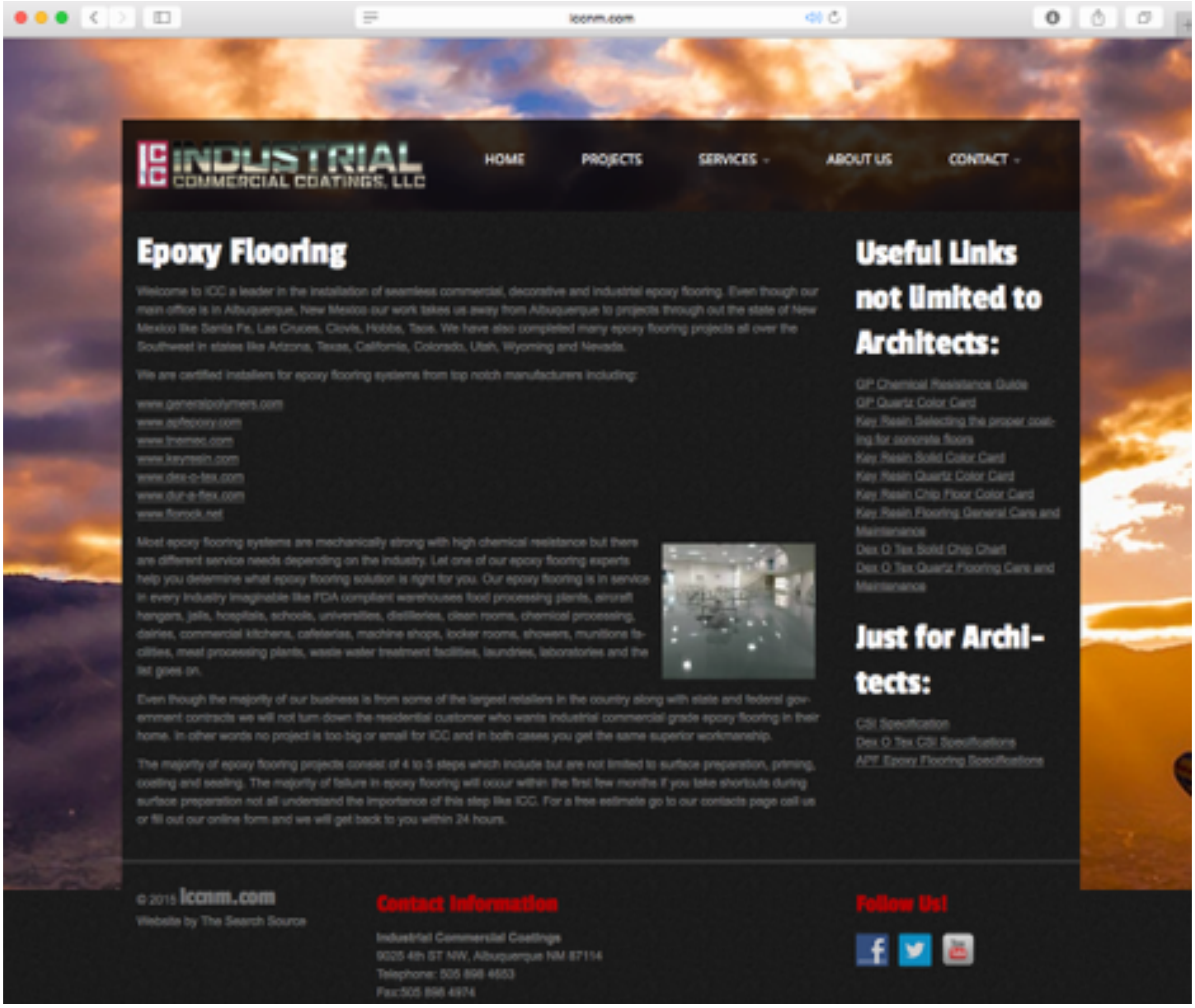
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www.dur-a-flex.com
www.florock.net
Most epoxy flooring systems are mechanically strong with high chemical resistance but there are different service needs depending on the industry. Let one of our epoxy flooring experts help you determine what epoxy flooring solution is right for you. Our epoxy flooring is in service in every industry imaginable like FDA compliant warehouses food processing plants, aircraft hangers, jails, hospitals, schools, universities, distilleries, clean rooms, chemical processing, dairies, commercial kitchens, cafeterias, machine shops, locker rooms, showers, munitions facilities, meat processing plants, waste water treatment facilities, laundries, laboratories and the list goes on.
Even though the majority of our business is from some of the largest retailers in the country along with state and federal government contracts we will not turn down the residential customer who wants industrial commercial grade epoxy flooring in their home. In other words no project is too big or small for ICC and in both cases you get the same superior workmanship.
The majority of epoxy flooring projects consist of 4 to 5 steps which include but are not limited to surface preparation, priming, coating and sealing. The majority of failure in epoxy flooring will occur within the first few months if you take shortcuts during surface preparation not all understand the importance of this step like ICC. For a free estimate go to our contacts page call us or fill out our online form and we will get back to you within 24 hours.
Useful Links not limited to Architects:
GP Chemical Resistance Guide
GP Quartz Color Card
Key Resin Selecting the proper coating for concrete floors
Key Resin Solid Color Card
Key Resin Quartz Color Card
Key Resin Chip Floor Color Card
Key Resin Flooring General Care and Maintenance
Dex O Tex Solid Chip Chart
Dex O Tex Quartz Flooring Care and Maintenance
Just for Architects:
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APF Epoxy Flooring Specifications
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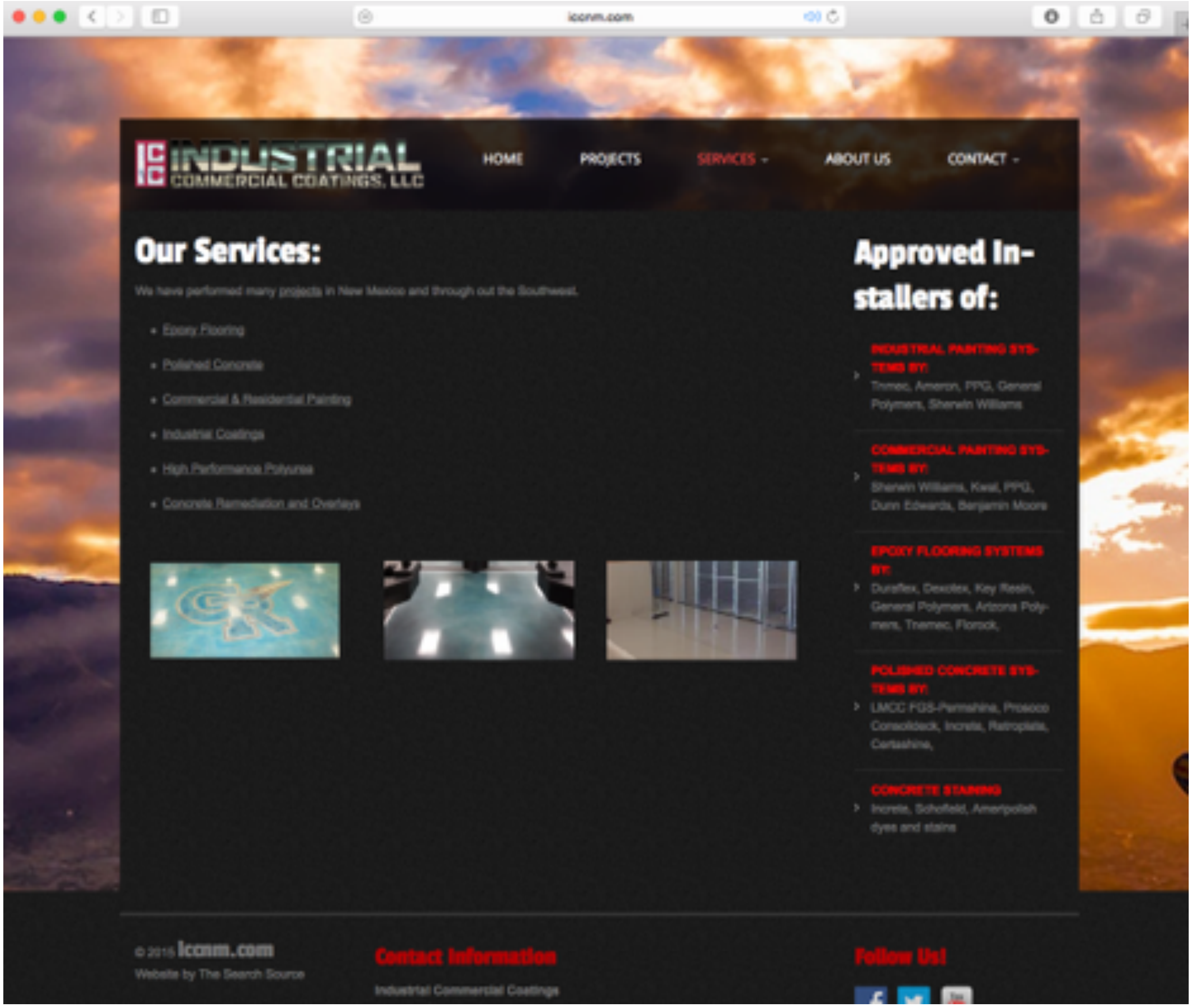
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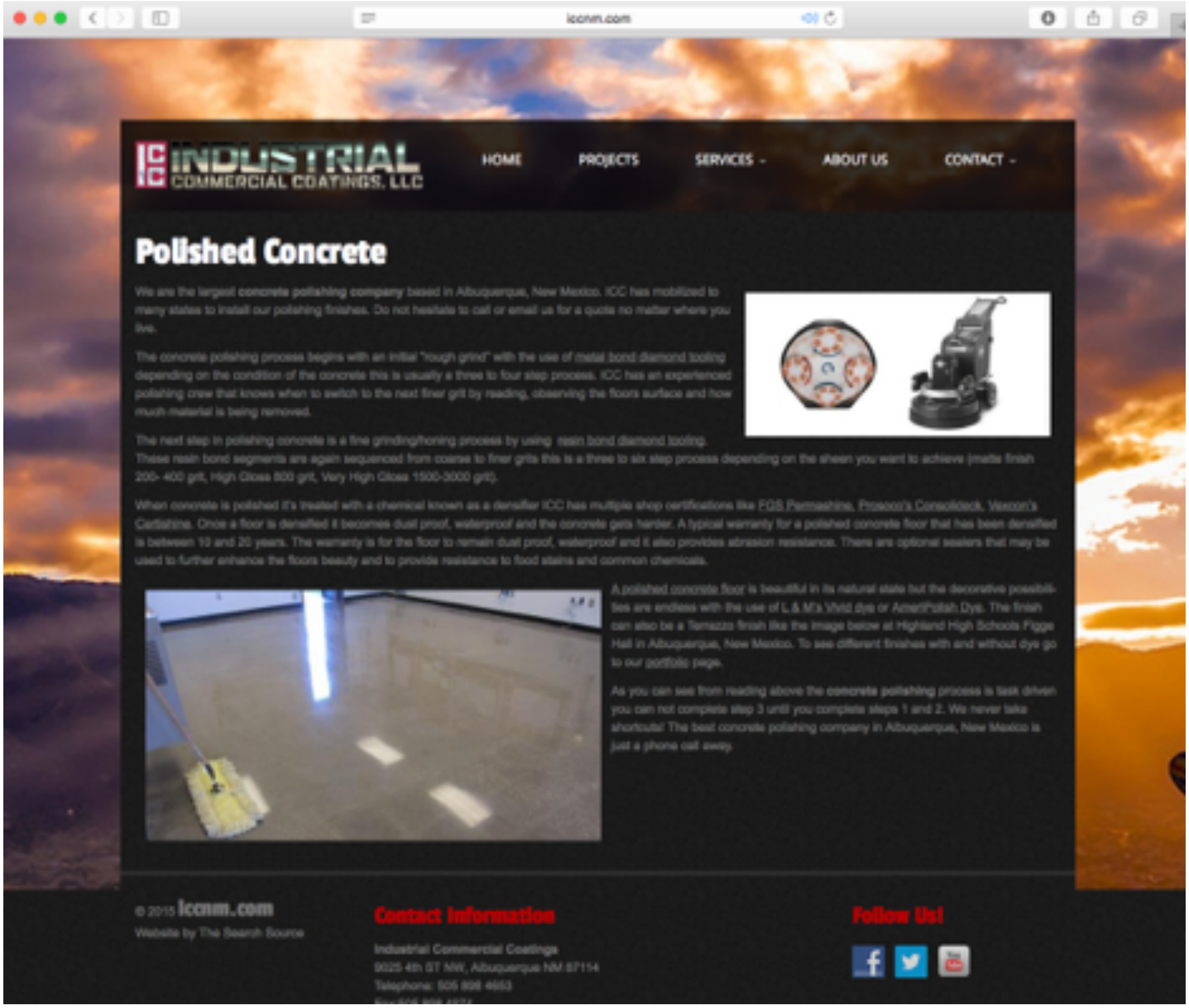
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We are the largest concrete polishing company based in Albuquerque, New Mexico. ICC has mobilized to many states to install our polishing finishes. Do not hesitate to call or email us for a quote no matter where you live.
As you can see from reading above the concrete polishing process is task driven you can not complete step 3 until you complete steps 1 and 2. We never take shortcuts! The best concrete polishing company in Albuquerque, New Mexico is just a phone call away.
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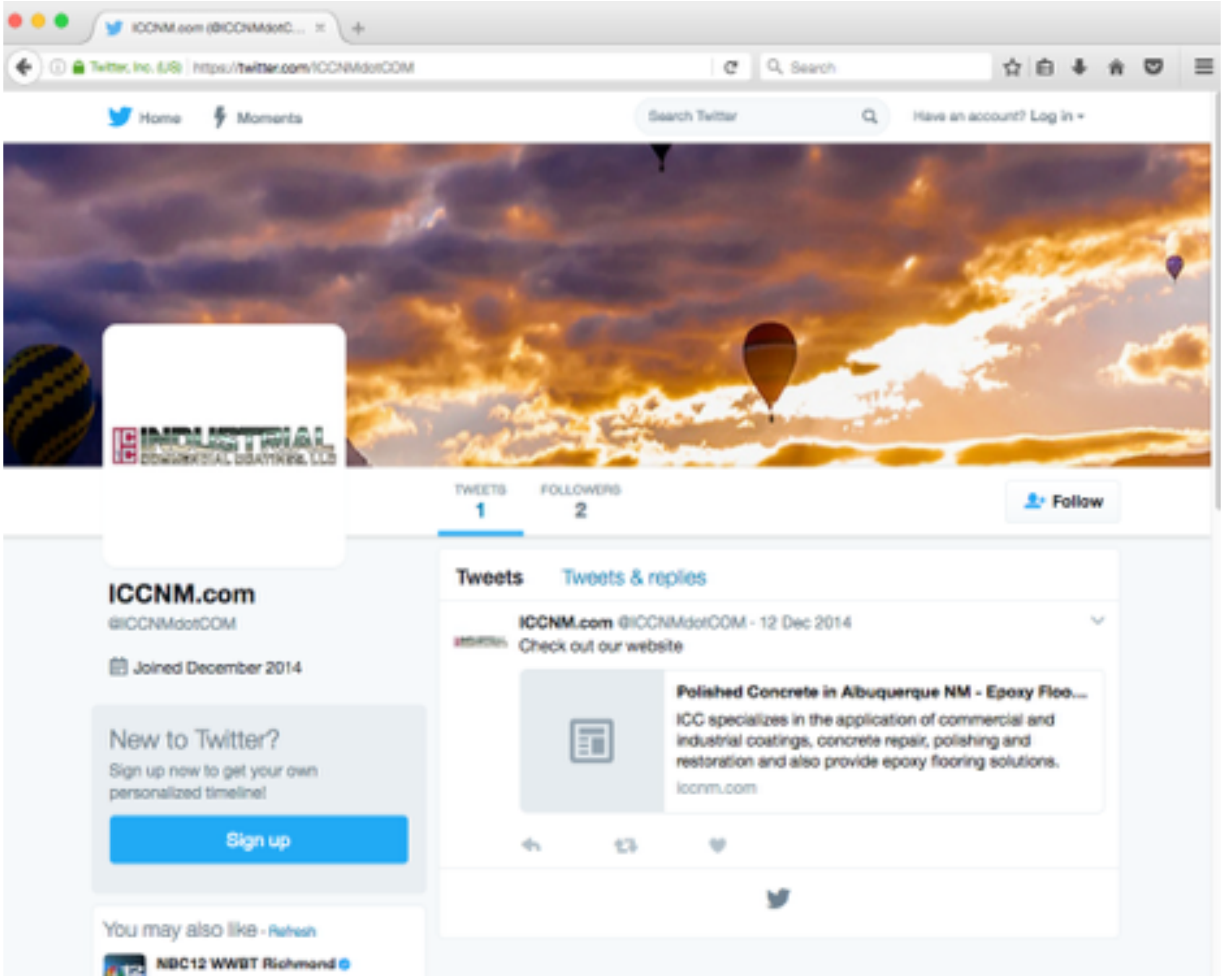
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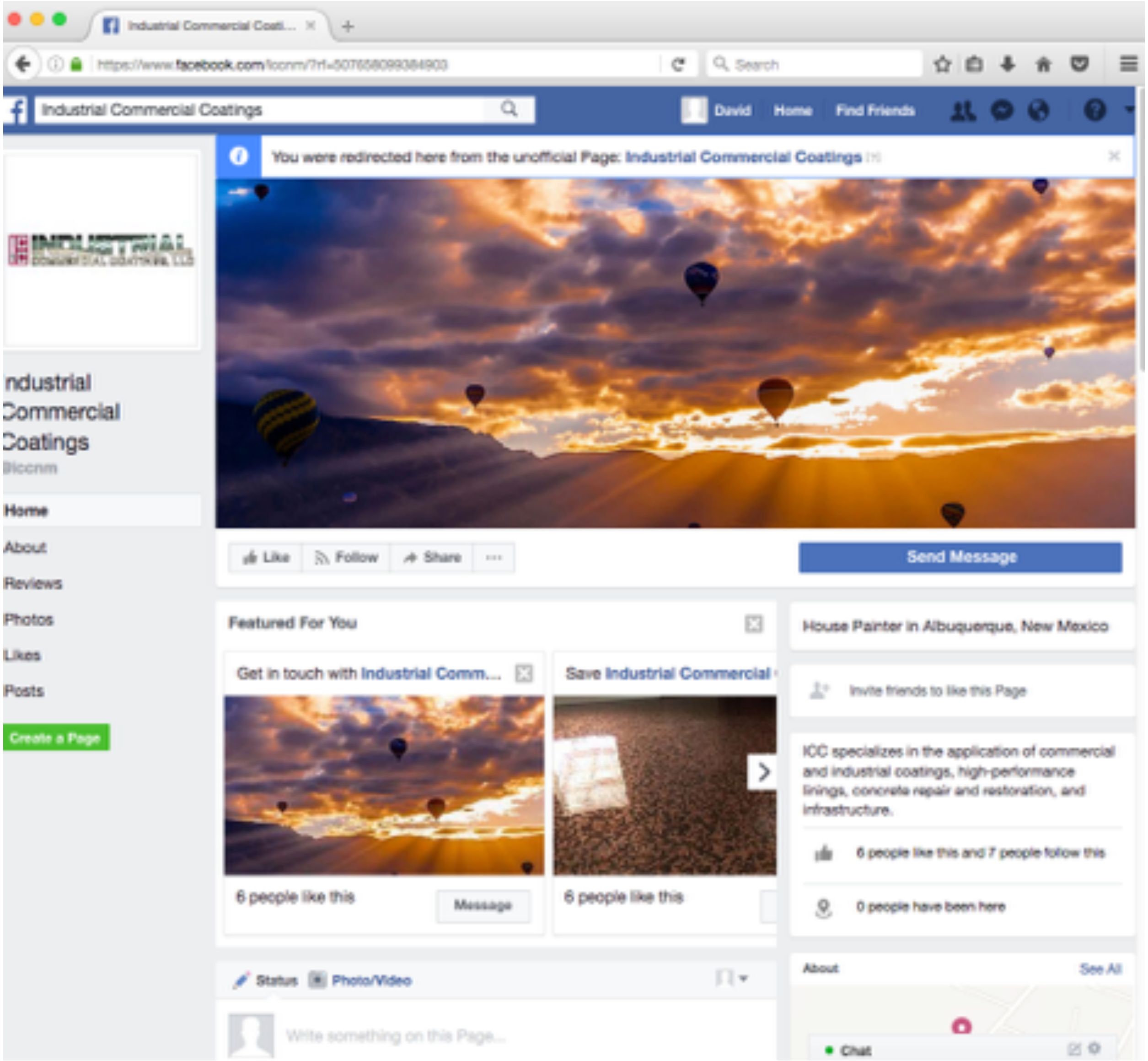
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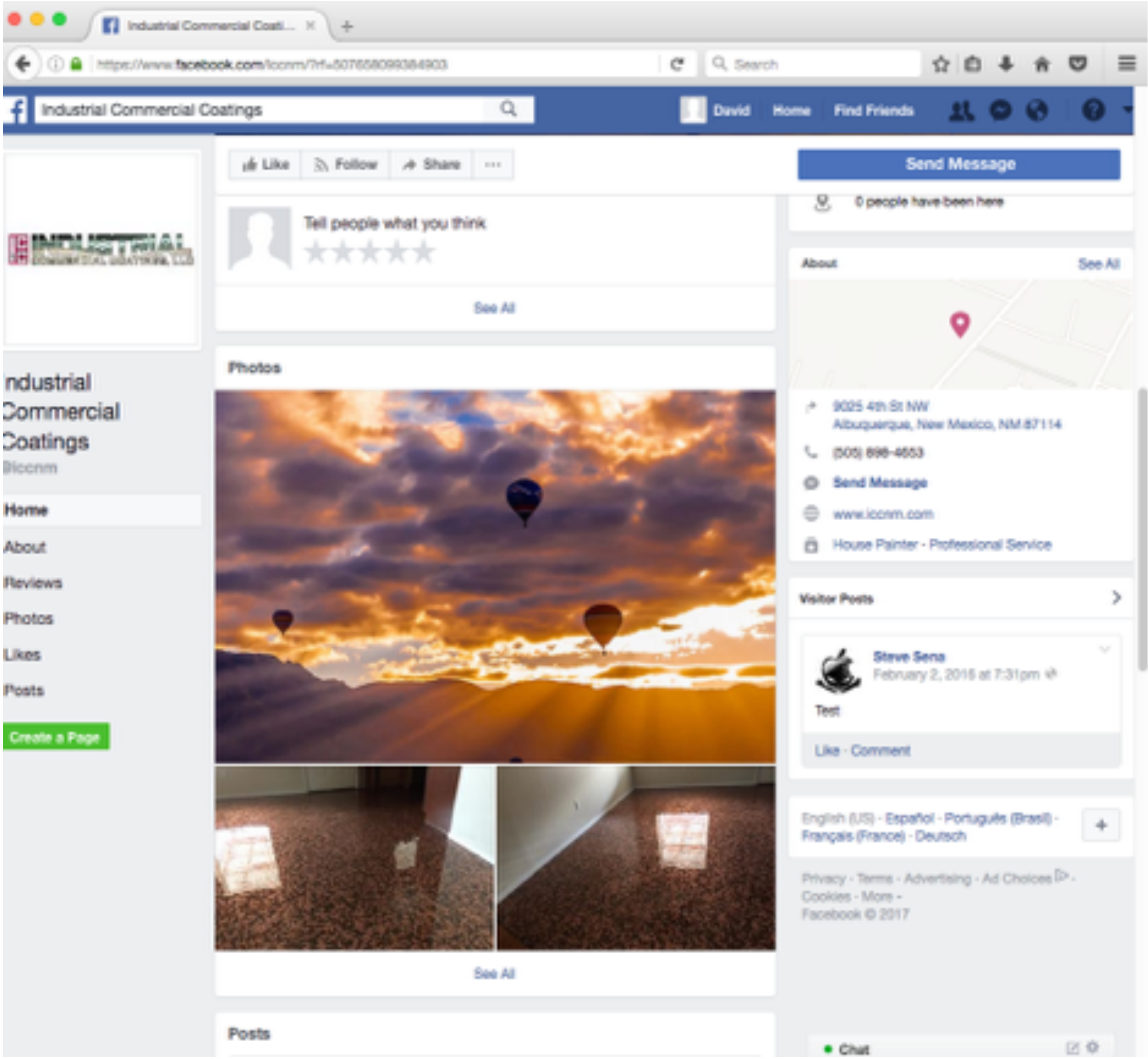
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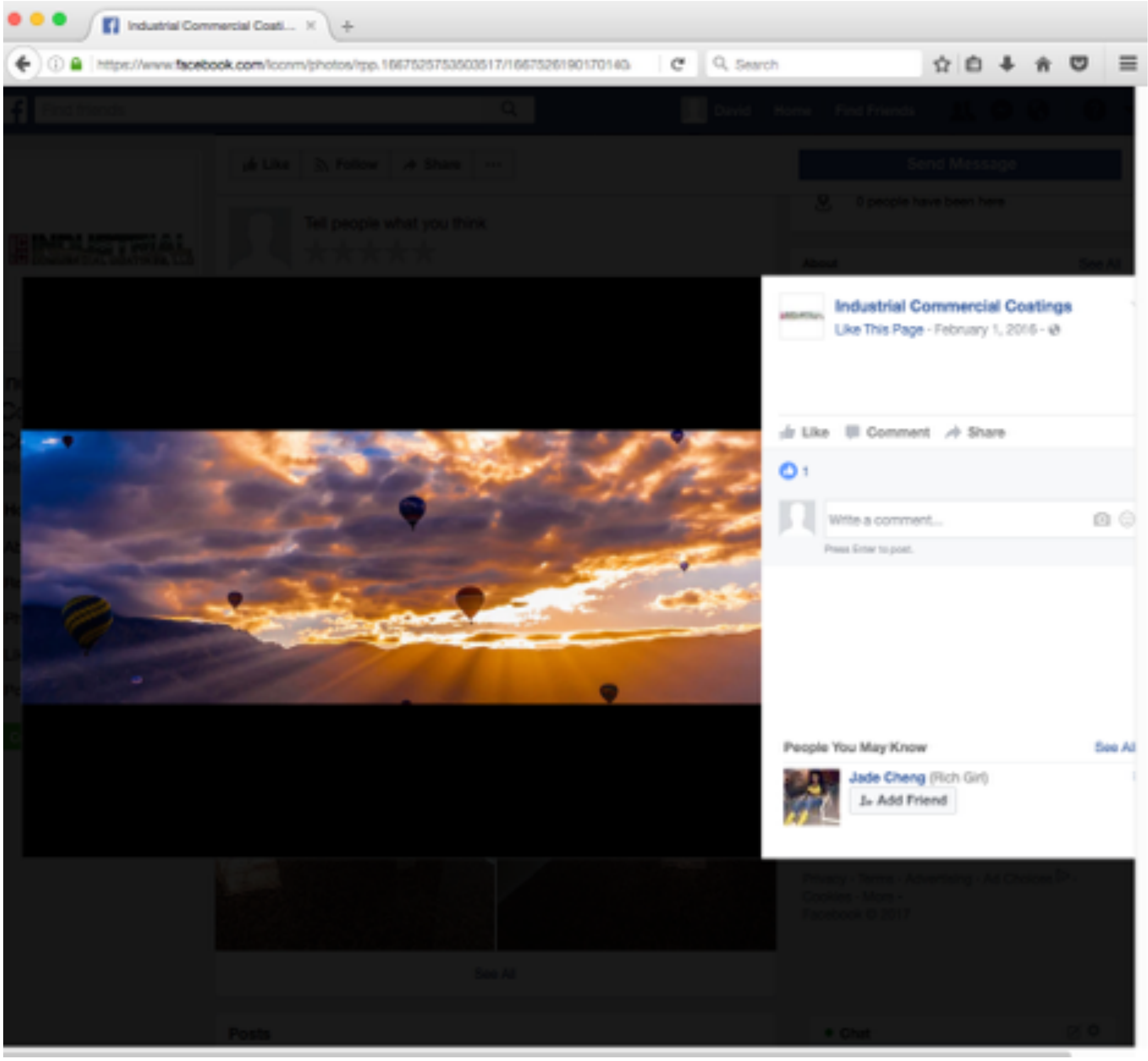
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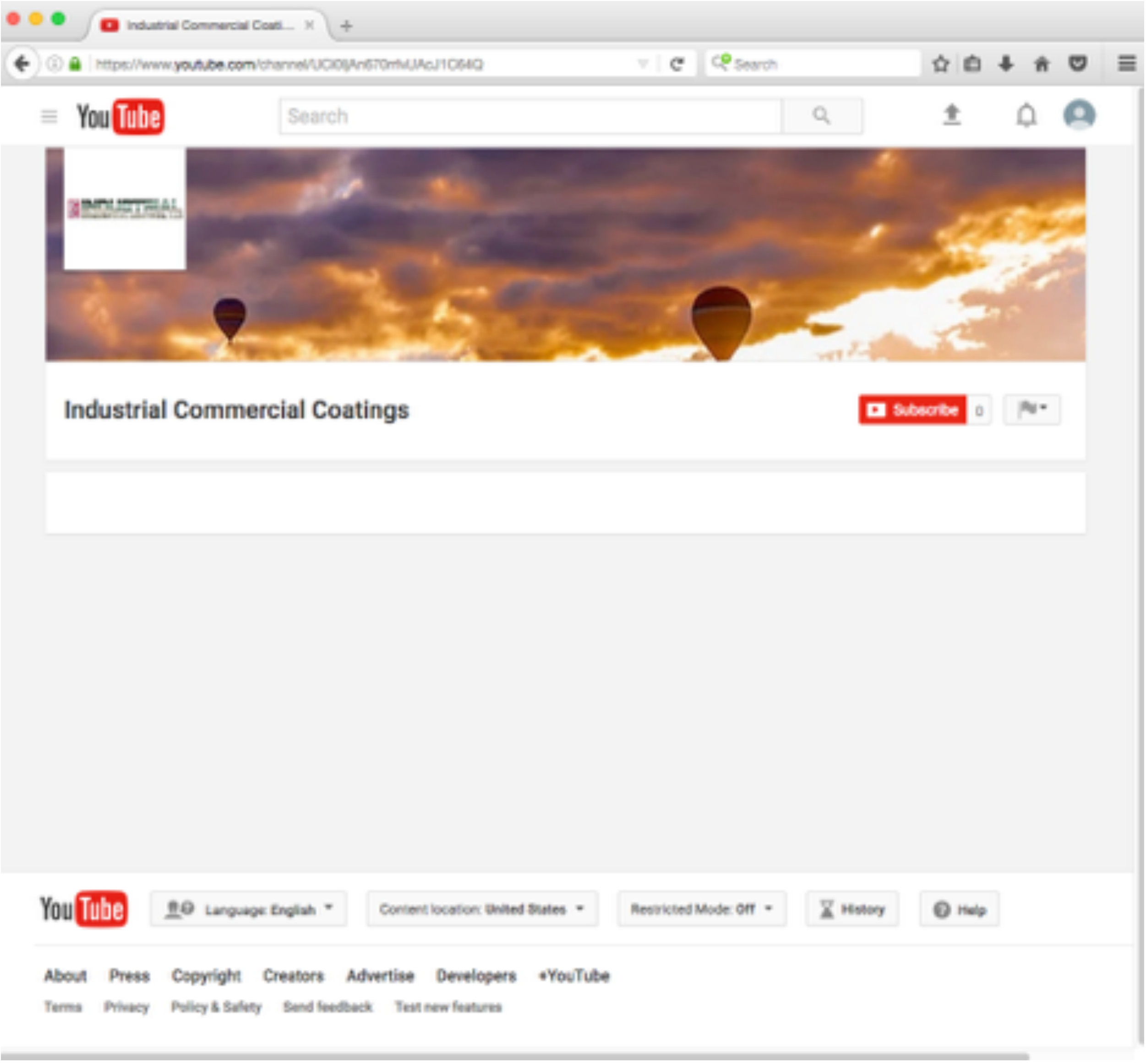
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